

### **REMARKS**

In the Office Action mailed August 23, 2005, claims 22-29 were rejoined with elected Group III. Claims 1-9 and 30-97 were withdrawn from consideration. The disclosure was objected to. Claim 26 was rejected under 35 U.S.C. 102(a) and (b). Claims 10-11, 15-16, 22-23, 25 and 26 were rejected under 35 U.S.C. 102(a). Claim 26 was rejected under 35 U.S.C. 112, second paragraph. Claims 12-14, 17-21, 24, 27-29 were said to be free of the art. Claims 11-13 were objected to as being of improper dependent form. Claims 14, 17-21 and 24 were objected to as being dependent upon a rejected base claim but were said to be allowable if rewritten in independent form.

#### **Objection to the specification**

In the Office Action mailed August 23, 2005, the disclosure was objected to because pages 53, 56, 65-66, 68-79 and 81-92 have portions which were said to be difficult or impossible to read. In response, replacement paragraphs for substitute pages 53, 56, 65-66, 68-79 and 81-92 are submitted. Typographical errors have been corrected. No other changes are made to the specification. It is believed this amendment complies with 37 C.F.R. 1.121(b). No new matter is added.

#### **Rejection of claim 26 under 35 U.S.C. 102(b)**

In the Office Action mailed August 23, 2005, claim 26 was rejected under 35 U.S.C. 102(b) over Schreuder (Yeast, 1993, vol. 9, pages 399-409). The Office Action stated the reference "recites yeast cells comprising a polypeptide ( $\alpha$ -galactosidase) fused to a yeast cell wall protein ( $\alpha$ -agglutinin) that is capable of binding a specific ligand (X- $\alpha$ -Gal or an antibody capable of binding  $\alpha$ -galactosidase); and a means for measuring the avidity and specificity of said binding (i.e., selective plates or immunofluorescence or western blot analysis)."

To expedite prosecution, claim 26 has been cancelled without prejudice and without conceding to the Examiner's comments. Therefore, this rejection is moot. Reconsideration and withdrawal of the rejection is respectfully requested.

Rejection of claim 26 under 35 U.S.C. 102(a)

In the Office Action mailed August 23, 2005, claim 26 was rejected under 35 U.S.C. 102(a) over Schreuder (Tibtech, April 1996, vol. 14, pages 115-120). The Office Action stated the reference "recites yeast cells comprising a polypeptide ( $\alpha$ -galactosidase or lipase or single chain antibody fragment, etc.) fused to a yeast cell wall protein ( $\alpha$ -agglutinin or flocculin) that is capable of binding a specific ligand (X- $\alpha$ -Gal or an antibody capable of binding  $\alpha$ -galactosidase or a lipid, etc.); and a means for measuring the avidity and specificity of said binding (i.e., selective plates or immunofluorescence or western blot analysis)."

To expedite prosecution, claim 26 has been cancelled without prejudice and without conceding to the Examiner's comments. Therefore, this rejection is moot. Reconsideration and withdrawal of the rejection is respectfully requested.

Rejection of claims 10-11, 15-16, 22-23, 25 and 26 under 35 U.S.C. 102(a)

In the Office Action mailed August 23, 2005, claims 10-11, 15-16, 22-23, 25 and 26 were rejected under 35 U.S.C. 102(a) as allegedly anticipated by Boder (Immunotechnology, Feb. 1996, Vol. 2(4), p. 283 Abstract).

In response, the Boder reference should not be cited against the current application because the Boder reference describes the inventors' own work within a year of the earliest priority date which is May 31, 1996. According to *In re Katz*, 215 USPQ 14 (CCPA 1982), applicant's disclosure of his or her own work within the year before the application filing date cannot be used against him or her under 35 U.S.C. 102(a).

As described in the attached Declaration of the inventors, the Boder reference describes a poster presentation made by two of the inventors (Boder and Wittrup) in February, 1996. The priority provisional application (60/018,741) has a filing date of May 31, 1996. Therefore, the reference should be removed from consideration since it is a publication of the inventors' own work made within a year of the effective filing date of the application.

In view of the arguments and Declaration, the rejection is believed to be overcome. Reconsideration and withdrawal of the rejection is respectfully requested.

Rejection of claim 26 under 35 U.S.C. 112, second paragraph

In the Office Action mailed August 23, 2005, claim 26 was rejected under 35 U.S.C. 112, second paragraph for the recitation of the phrase "means for measuring the avidity and specificity of the fused polypeptide binding to said specific ligand."

As stated above, claim 26 has been cancelled without prejudice and without conceding to the Examiner's comments. Therefore, the rejection is moot. Reconsideration and withdrawal of the rejection is respectfully requested.

Objection of claims 11-13 under 37 C.F.R. 1.75(c)

Claims 11-13 were objected to as being of improper dependent form. In response, claim 11 has been rewritten as independent, including all the limitations of claim 10. This amendment is believed to overcome the rejection. Reconsideration and withdrawal of the rejection is respectfully requested.

Objection of claims 14, 17-21 and 24

Claims 14, 17-21 and 24 were objected to as being dependent upon a rejected base claim. In view of the arguments presented herein, it is believed the base claims

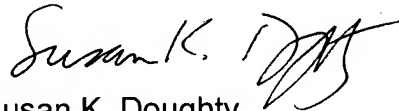
are allowable. Reconsideration and withdrawal of the objection is respectfully requested.

### CONCLUSION

In view of the above arguments and amendments it is believed the case is in condition for allowance. Reconsideration and withdrawal of the rejections and objections is respectfully requested. If there are any issues remaining to passage of the case to issuance, the Examiner is respectfully requested to contact the undersigned.

This submission is accompanied by a Petition for Extension of Time (3 months), Supplemental Information Disclosure Statement, and a check in the amount of \$1,200.00 (\$180.00 for supplemental information disclosure statement and \$1,020.00 for three months extension fee). If the amount submitted is incorrect however, please charge any fees required, including any extensions of time required, to Deposit Account No. 07-1969.

Respectfully submitted,



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